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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ASSOCIATED PRESS,

Plaintiff,

- v. -

UNITED STATES DEPARTMENT
OF DEFENSE,

Defendant.
-----x

ECF CASE

DECLARATION OF
GORDON R. ENGLAND

06 Civ. 1939 (JSR)

Gordon R. England hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Deputy Secretary of Defense and am an original classification authority under Executive Order 12958, as amended. I served as Acting Deputy from May 16, 2005 to January 4, 2006, when I was recess appointed by the President as Deputy Secretary. I was confirmed by the Senate on April 6, 2006 as the 29th Deputy Secretary of Defense. Prior to that, I served as the Secretary of the Navy, beginning in September 2003.
2. As both the Secretary of the Navy and the Deputy Secretary of Defense, I serve as the Designated Civilian Official responsible for overseeing the detainee review processes at Joint

Task Force-Guantanamo (JTF-GTMO). This includes the Combatant Status Review Tribunals and the Administrative Review Board proceedings.

3. I am aware that the Associated Press has filed a Freedom of Information Act (FOIA) request for photographs that reveal the identity of all individuals detained at JTF-GTMO. According to the classification guidance for JTF-GTMO in place when that FOIA request was made, an identifying photograph of an individual currently detained at Guantanamo by the Department of Defense is classified at the SECRET level when linked with the detainee's name and ISN, while photographs of detainees who have left Guantanamo are not classified under that guidance.

4. I have reviewed the declaration of Paul B. Rester, the Director of the Joint Intelligence Group at JTF-GTMO, dated May 10, 2006, regarding the rationale for classifying photographs of current detainees, and I agree with and adopt that rationale. As set forth in that declaration, photographs that identify current detainees are classified because their public release will have a chilling effect on current sources and methods of human intelligence collection. I also find that the release of these photographs reasonably could be expected to cause serious damage to the national security, in particular, to the ability of the Department of Defense to gather actionable intelligence information from detainees at Guantanamo.

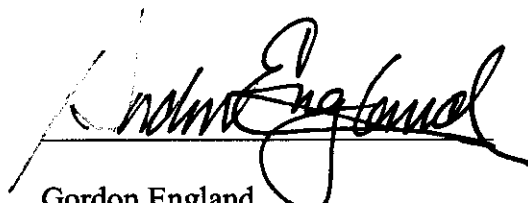
5. I have determined that this rationale applies equally to photographs of past detainees, as set forth in the supplemental declaration of Paul B. Rester. While former detainees are no longer subject to interrogation at Guantanamo, release of their photographs is likely to become known to detainees who remain there. I find that if current detainees believe that their photographs will be published upon their departure from Guantanamo, that will have a chilling effect on current sources and methods of human intelligence collection and reasonably can be expected to cause

serious damage to the national security, in particular, to the ability of the Department of Defense to gather actionable intelligence information from detainees at Guantanamo.

6. Section 1.7(d) of Executive Order 12958, as amended, authorizes me to classify or reclassify information after the Department of Defense has received a request for it under the Freedom of Information Act if such classification meets the requirements of that Order and is accomplished on a document-by-document basis with my personal participation or under my direction. I have exercised that authority and have reclassified at the SECRET level the photographs of individuals who have left Guantanamo, thereby correcting the error in the current classification guidance. As set forth and for the reasons stated in the supplemental Rester declaration, this information concerns "intelligence activities (including special activities), intelligence sources or methods, or cryptology" under Section 1.4(c) of Executive Order 12958, as amended, and the disclosure of these photographs reasonably could be expected to result in serious damage to the national security, including our defense against transnational terrorism.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd Day of June, 2006



Gordon England
Deputy Secretary of Defense